

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

MALIBU MEDIA, LLC

*

Plaintiff

*

vs.

* CIVIL ACTION NO. MJG-14-1191

JOHN DOE subscriber assigned
IP address 108.15.61.146

*

Defendant

* * * * *

MEMORANDUM AND ORDER RE: SUBPOENA

The Court has before it the Defendant's Motion to Quash Subpoena [Document 9] and the materials submitted relating thereto. The Court finds that a hearing is unnecessary.

Plaintiff has sued the Defendant alleging that he/she infringed its copyright in certain motion pictures, allegedly of a sexually explicit nature. The Defendant seeks to have the Court quash a subpoena to an internet service provider by which Plaintiff seeks to learn the identity of the Defendant.

The Defendant asserts that the Plaintiff is not able to produce evidence that he/she "utilized the services alleged to have accessed any internet media at the described time." Def.'s Mot. 1, ECF No. 9.

Plaintiff has presented allegations that, taken as true, would establish that someone infringed its copyright by using the specified IP address. This Court has established a

procedure that recognizes the privacy interests of subscribers as to whom there may be no plausible claim. See the Order Re: Initial Discovery [Document 6] that provides appropriate protection for a subscriber while recognizing Plaintiff's rights. For the Court to quash the subpoena would allow a Defendant to prevent the Plaintiff from pursuing a potentially valid claim simply by denying liability.

The Court will not quash the subpoena. Plaintiff shall, of course, proceed pursuant to the Order Re: Initial Discovery [Document 6]. Should Plaintiff file an Amended Complaint pursuant to ¶ 4 of that Order, the Defendant can then seek dismissal for failure to state a claim pursuant to Rule 12(b) (6) of the Federal Rules of Civil Procedure, and there shall be no identification of Defendant on the public record until, at least, the Court has denied any such motion.

For the foregoing reasons:

1. Defendant's Motion to Quash Subpoena [Document 9] is DENIED.
2. The subpoena at issue is not quashed.
3. The parties shall proceed pursuant to the Order Re: Initial Discovery [Document 6].

SO ORDERED, on Friday, August 15, 2014.

/s/
Marvin J. Garbis
United States District Judge